

A F F I D A V I T

STATE OF WEST VIRGINIA

COUNTY OF RALEIGH, to-wit:

I, Timothy S Roberts, being first duly sworn, do hereby depose and state as follows:

1. I make this affidavit in support of a search warrant for the collection of DNA from MICHAEL WEINSTEIN (hereinafter "WEINSTEIN"), who is further described in Attachment A. I believe there is probable cause that evidence of the offense of murder, in violation of 18 U.S.C. §§ 1111, will be found if known samples of WEINSTEIN's DNA are obtained.

2. I have been a Special Agent with the Federal Bureau of Investigation (hereinafter the "FBI") since 2016. I am a graduate of the FBI Training Academy in Quantico, Virginia, where I received training in violent crime investigations, white-collar crime, cyber-crime, crimes against children, interviewing, interrogation, evidence collection, intelligence analysis, and legal matters, among other topics. I am currently assigned to the Beckley, West Virginia Resident Agency of the Pittsburgh Division. Prior to my current assignment, I was assigned to the New York Field Office of the FBI where I was assigned to terrorism investigations. Prior to my employment with the FBI, I was a police officer from 2008 to 2016. I have experience investigating terrorism matters, violent crimes, and child exploitation offenses, as well as other

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violations of federal law. As a Special Agent, I am an investigative or law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7).

3. I have obtained the facts set forth in this Affidavit through my personal participation in the investigation, from oral and written reports of other law enforcement officers, from records, documents and other evidence obtained during this investigation, and from other sources of information as referenced herein. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all my knowledge about this matter.

PROBABLE CAUSE

4. The FBI is currently conducting a criminal investigation of WEINSTEIN and others for the violent assault and death of ANDREW DAVIS (hereinafter "DAVIS"). WEINSTEIN and other individuals lured DAVIS into the communal computer room of housing unit Oak B Upper at the Federal Correctional Institution Beckley where a violent altercation took place. DAVIS was able to escape the computer room and make his way back into the common area of the housing unit. DAVIS can be seen with bleeding wounds on his back as a result of the altercation. DAVIS died as a result of the injuries received during this assault. DAVIS' death was ruled a homicide following an autopsy conducted by Doctor Richard Morris,

a medical examiner with the West Virginia Office of the Chief Medical Examiner in Charleston, West Virginia. These events occurred in and around Beaver, Raleigh County, West Virginia, within the Southern District of West Virginia.

5. During the investigation, camera footage from housing unit Oak B Upper at Federal Correctional Institution Beckley was reviewed by investigators at Federal Correctional Institution Beckley, Special Agents of the FBI, and Assistant United States Attorney's. The footage shows DAVIS walk into the computer room of housing unit Oak B Upper and WEINSTEIN walk in after. The footage shows a physical altercation take place in the room and DAVIS come out of the room with a group of men following him. WEINSTEIN was identified on video footage by Special Investigative Services Technicians at Federal Correctional Institution Beckley.

6. All inmates housed in housing unit Oak B Upper at the time of the assault, with the exception of inmates believed to be involved with the assault, have been interviewed by FBI Agents and Task Force Officers and multiple stated that they saw WEINSTEIN in a physical altercation with DAVIS.

7. Multiple stabbing weapons were located in housing unit Oak B Upper on the night of the assault and shortly after. Those weapons have been gathered and will be sent to the FBI Laboratory in Quantico, Virginia. A request will be made to swab the weapons

for DNA comparison. Lab protocol dictates that for the lab to perform the comparison they will need an exemplar swab of the suspect.

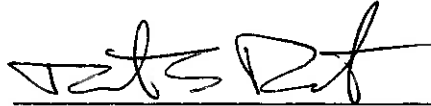
8. I have access to Federal Convicted Offender Program Buccal Collection Kits. I know that these kits provide sterile applicators that can be used to swab the inside of a suspect's cheek to obtain skin cells that contain the suspect's DNA. The kits provide gloves and containers to obtain and store the suspect's DNA without contamination. Using the kits to obtain a suspect's DNA is minimally invasive, requiring applicators to be rubbed with slight pressure against the inside of a suspect's cheek for less than a minute. The process is not painful or discomforting. I know that the FBI Laboratory can use DNA obtained from these kits to develop a suspect's DNA profile and compare it to a DNA profile potentially obtained from the weapons to determine if they match.

CONCLUSION

9. I believe that there is probable cause that searching WEINSTEIN by obtaining buccal swabs from him will lead to additional evidence that he conspired to or was an accessory to the crime of murder, in violation of 18 U.S.C. §§ 1111. DNA samples obtained from WEINSTEIN can be compared to any DNA evidence recovered from the swabs of the weapons. Therefore, I request the

issuance of a search warrant for obtaining a sample of WEINSTEIN's DNA through buccal swabbing.

10. Further your Affiant sayeth naught.

A handwritten signature in black ink, appearing to read "T. S. Roberts", written over a horizontal line.

Timothy S Roberts, SPECIAL AGENT
Federal Bureau of Investigation

SUBSCRIBED AND SWORN before me this 27th day of February,
2024.

A handwritten signature in blue ink, appearing to read "Omar J. Aboulhosn", written over a horizontal line.

HONORABLE Omar J. Aboulhosn
United States Magistrate Judge